

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GERALD BUTLER,

Plaintiff,

09cv1393

ELECTRONICALLY FILED

v.

RUTH V. BAXTER, NATIONAL CITY
CORPORATION,

Defendants.

ORDER OF COURT AFFIRMING
UNITED STATES MAGISTRATE JUDGE AND DISMISSING APPEAL

On December 2, 2009, this Court entered an Order (Doc. No. 16) rejecting plaintiff's Objections to Magistrate Judge Cathy Bassoon's Report and Recommendation that his civil rights complaint be dismissed, adopting the R&R, and dismissing the case. Plaintiff also had filed a motion for appointment of counsel to assist him in these proceedings (Doc. No. 10), which the Magistrate Judge denied by text order on November 12, 2009. The text order notified plaintiff that he was "allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.C.2 of the Local Rules for Magistrates . . . [and that failure] to appeal within ten (10) days may constitute waiver of the right to appeal." *Id.*

Thereafter, on December 7, 2009, plaintiff filed a Notice of Appeal from the Order of November 12, 2009, denying his motion for appointed counsel, and also a new motion for appointment of counsel (Doc. No. 18). This appeal is untimely under our local rules, and also is moot, in light of the dismissal of the complaint, as is the motion to appoint counsel.

Accordingly, plaintiff's appeal is dismissed and his motion for appointment of counsel

(Doc. No. 18) is DENIED as moot.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc:

All Registered ECF Counsel

The Honorable Cathy Bissoon
United States Magistrate Judge

Gerald Butler, Pro Se
HS1482
SCI - Somerset
1600 Walters Mills Rd.
Somerset, PA 15510